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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
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of Minorities
Fiftieth session
Item 12 (c) (iii) of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN OR MAY BE CONCERNED:

REVIEW OF ISSUES NOT PREVIOUSLY THE SUBJECT OF STUDIES BUT WHICH THE SUB-COMMISSION HAD DECIDED TO EXAMINE: INTERNATIONAL PEACE AND SECURITY AS AN ESSENTIAL CONDITION FOR THE ENJOYMENT OF HUMAN RIGHTS, ABOVE ALL THE RIGHT TO LIFE

Written statement submitted by International Educational Development, Inc., a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 July 1998]

GE.98-13452 (E)

Weapons, human rights and humanitarian law

1. At its forty-eighth session the Sub-Commission began a review of certain weapons, including weapons containing depleted uranium, and in resolution 1996/16 it requested the Secretary-General to submit a report containing information about these weapons. The Secretary-General's report (E/CN.4/Sub.2/1997/27 and Add.1) contained replies from a number of Governments and non-governmental organizations, raising serious questions about these weapons and human rights and humanitarian law norms. International Educational Development submitted our Memorandum on weapons and the laws and customs of war, IED/HLP (1997) to the Secretary-General, which he excerpted in paragraphs 17-41 of his report. 1/

2. The Sub-Commission has been concerned about arms and armaments for some time, 2/ and as a result of the quantity of material submitted to the Secretary-General, as well as the lack of attention in the United Nations bodies addressing arms control to human rights and humanitarian concerns, the Sub-Commission decided to go forward with a review of weapons, and in its resolution 1997/36 authorized Mrs. Clemencia Forero Ucros to prepare a working paper setting out how further study of this important topic might proceed. We are particularly pleased that the Sub-Commission, in its resolution 1997/37, authorized Mrs. Forero Ucros to include the topic of illicit transfer of arms in her working paper.

3. In our Memorandum we identify the four basic rules for weaponry under existing customary and treaty-based humanitarian law: (i) weapons must be able to be contained to legal military fields of action (the geographical requirement); (ii) weapons must be able to cease harming action when the armed conflict is over (the temporal requirement); (iii) weapons may not cause undue suffering (the humanitarian requirement); and (iv) weapons must not unduly harm the environment (the environmental requirement). We conclude that the use of most of the weapons listed in resolutions 1996/16 and 1997/36, especially weaponry containing depleted uranium, would constitute a per se violation of these requirements. We also conclude that production or threat of production, stockpiling and development of weapons whose use would constitute a per se violation of humanitarian law could be viewed as coercive, torture, a serious threat to peace, a threat to the right to self-determination and a threat to the right to life.

4. There is a compelling need to continue work in this area because certain countries, especially developed countries, continue development and stockpiling of more and more grotesque weaponry that could not legally be used. Additionally, they have huge stockpiles of weapons, including all weapons listed by the Sub-Commission, whose storage and containment are increasingly difficult. Developing countries also have considerable stockpiles of listed weapons, and are committing substantial amounts of their budgets for the development or purchase of such weapons. The arms race has resulted in further impoverishment of many of the world's peoples.

5. Developed countries condemn or applaud the presence of these weapons in the hands of developing countries in a biased way: each developed country supports its allies and condemns its enemies for the possession of the same weapons. Yet all development, stockpiling and use of these weapons should be

condemned. The developed countries should be especially criticized because they have created these weapons and now want to control who has them for political advantage rather than eliminate them.

6. Reliable information about these and similar weapons is difficult to obtain. Unfortunately, many Governments consider information about their weapons programmes to be classified or off limits to the general public, creating serious tension between rights under humanitarian and human rights law and so-called national security concerns. We believe that no State can use a national security defence to preclude investigation about weapons that are per se illegal. Further study of this issue should include discussion of permissible as well as impermissible national security concerns as they relate to the listed and similar weapons.

7. In resolution 1997/35 the Sub-Commission expressed the belief that efforts must be made to sensitize public opinion about these weapons. Public education about these weapons is vitally important. Further work by the Sub-Commission can only enhance public information and awareness, and so make the world safer for us all. More publicity about the weapons can also help in efforts to seek full disclosure from Governments.

8. International Educational Development/Humanitarian Law Project has maintained contact with many organizations that are involved with weaponry issues. We have collected materials from many groups as well as from individual researchers and medical people and have submitted them to Mrs. Forero Ucros. We have also met with the media and have generated news articles about these weapons and the Sub-Commission's work.

9. In our work publicizing the Sub-Commission's initiative, we have been amazed at how few people are aware of, for example, the use of weapons containing depleted uranium by United States forces in the Gulf war or about the residual effect of these weapons on the Iraqi civilian population. We have supported efforts to investigate this in Iraq, and have met with and collected information from medical doctors, nurses, medical researchers, media investigators and a wide range of equally concerned groups. We are convinced that a special focus needs to be brought to this situation, and are concerned that the continued sanctions against Iraq have played a significant part in suppressing information and enhancing disinformation about this weaponry and its devastating and continued effects. In this light, we applaud the concern of the Sub-Commission about the humanitarian situation in Iraq, which it has expressed in numerous decisions since 1990, the latest being decision 1997/119.

10. We are also concerned that the general public does not evince much understanding of existing humanitarian and human rights norms that relate to the weapons or the United Nations arms control programmes. Especially distressing is that many organizations working on weapons control were unaware of the existence of the Sub-Commission when we first contacted them.

11. We support this initiative as well as other efforts of the United Nations in the field of human rights. We are convinced that full development of this topic in a comprehensive study will not only be regarded as a key turning point in arms control and disarmament work but will ensure

the continued participation of a wide range of grass-roots, national and international organizations in the ongoing work of the United Nations human rights bodies. For this reason, we most strongly urge the Sub-Commission to approve the appointment of Mrs. Forero Ucros as Special Rapporteur for a full study of weaponry in the light of humanitarian and human rights law. The study should include the issues of development, production, stockpiling, trafficking and use or threat of use of all the weapons listed in the Sub-Commission's resolutions as well as contemplated weapons and their development as they become known.

Notes

1/ Additional excerpts of the Memorandum are found in document E/CN.4/Sub.2/1997/NGO/19.

2/ In 1992, for example, the Sub-Commission, in its resolution 1992/39, expressed concern about arms production and trade and human rights.